

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

§
§
§
§

versus

CRIMINAL NO. H-10-459

WILMAR RENE DURAN-GOMEZ

**MOTION TO COMPEL THE GOVERNMENT TO PROHIBIT ITS AGENTS FROM
CONTACTING THE DEFENDANT**

TO THE HONORABLE JUDGE HOYT:

COMES NOW WILMAR RENE DURAN-GOMEZ, by and through his attorneys of record, Wendell A. Odom, Jr. and Neal Davis, III, and hereby requests this honorable Court consider the merits of this motion and in turn grant this motion based upon the following:

I

On March 18, 2014 at approximately 11:30 a.m., undersigned counsel went to the Joe Corley Unit in Conroe, Texas to visit Mr. Duran Gomez. The detention facility guards told counsel that Mr. Duran Gomez had already been pulled from his cell prior to counsel's arrival. The guards stated that an ICE agent had requested that the guards pull him so that he could interview him at 11:45 a.m. Counsel told the guards that Mr. Duran Gomez was represented by counsel and that no government agents are to interview him. Counsel spoke with his client who stated that he had no idea why ICE agents wanted to interview him and that he had not waived his Fifth Amendment rights in order to talk to law enforcement. Counsel waited; however, ICE agents did not arrive. Sometime later that day, two ICE agents spoke with Mr. Duran Gomez, who refused to answer any questions without his attorneys' presence.

II

All defendants have a Fifth Amendment right to not make a statement to any government agent. Furthermore, once a defendant has invoked his Sixth Amendment right to counsel, the government shall not approach the defendant to interview him. The government has attempted to violate this defendant's right by ordering jail personnel to pull the defendant out of his cell and make a statement to him without his constitutional right to have his lawyer present.

The defendant and his counsel request that the Court order the government to not attempt to interview the defendant. The defendant and his counsel request that the Court order the government to ensure that no government law enforcement agency interfere with the defendant in any way unless the defendant or his counsel so requests.

WHEREFORE, PREMISES CONSIDERED, Defendant requests this Court consider the merits of this motion and, in turn, grant the same based upon the foregoing.

Respectfully submitted,

/s/ Wendell A. Odom, Jr.
WENDELL A. ODOM, JR.
Texas State Bar # 15208500
Federal # 0947

/s/ Neal Davis, III
NEAL DAVIS, III
Texas State Bar # 24038541
Federal # 706329
440 Louisiana, Suite 200
Houston, TX 77002
(713) 223-5575
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Motion** was delivered via electronic filing to the Assistant United States Attorneys in this cause on March 24, 2014.

/s/ Neal Davis, III
NEAL DAVIS, III

CERTIFICATE OF CONFERENCE

I hereby certify that the undersigned, Neal Davis, III has spoken with the Assistant United States Attorneys in this cause, Ruben Perez and Joe Magliolo, who stated they are not opposed to the filing of this motion.

/s/ Neal Davis, III
NEAL DAVIS, III